

**SUPREME COURT MINUTES
TUESDAY, DECEMBER 23, 2003
SAN FRANCISCO, CALIFORNIA**

S106660

B142999 Second Appellate District,
Division Three

SCHIFANDO v. CITY OF LOS ANGELES

Opinion modified - no change in judgment

S119869

A100258 First Appellate District,
A097784 Division One

AMERICAN FINANCIAL SERVICES ASSOC. v.
CITY OF OAKLAND

Petition for review granted

Votes: George, C.J., Kennard, Werdegar, Chin,
Brown, and Moreno, JJ.

S120238

H023584 Sixth Appellate District

PEOPLE v. MODIRI

Petition for review granted

Votes: George, C.J., Kennard, Baxter,
Werdegar, Chin, and Moreno, JJ.

S120332

B167458 Second Appellate District,
Division Five

HLC PROPERTIES, LTD. v. S.C. (MCA RECORDS)

Petition for review granted

Votes: George, C.J., Kennard, Baxter,
Werdegar, Chin, Brown, and Moreno, JJ.

S120474

E031426 Fourth Appellate District,
Division Two

PEOPLE v. AMERICAN CONTRACTORS INDEMNITY

Petition for review granted

Votes: George, C.J., Kennard, Baxter,
Werdegar, Chin, Brown, and Moreno, JJ.

S120014

A097996 First Appellate District,
Division Four

PEOPLE v. RIDER

Review granted/briefing deferred (rule 29.1)

Further action in this matter is deferred pending consideration and disposition of a related issue in *People v. Barker*, S115438 (see Cal. Rules of Court, rule 28.2 (c)), or pending further order of the court. Submission of additional briefing,

pursuant to California Rules of Court, rule 29.1, is deferred pending further order of the court.

Votes: George, C.J., Kennard, Baxter, Werdegar, Chin, Brown, and Moreno, JJ.

S120424

H024797 Sixth Appellate District

PEOPLE v. APODACA

Review granted/briefing deferred (rule 29.1)

Further action in this matter is deferred pending consideration and disposition of a related issue in *People v. Barker*, S115438 (see Cal. Rules of Court, rule 28.2 (c)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 29.1, is deferred pending further order of the court.

Votes: George, C.J., Kennard, Baxter, Werdegar, Chin, Brown, and Moreno, JJ.

S120631

B159740 Second Appellate District,
Division One

KADISH v. JEWISH COMMUNITY CENTERS

Review granted/briefing deferred (rule 29.1)

Further action in this matter is deferred pending consideration and disposition of a related issue in *Wiener v. Southcoast Childcare Centers*, S116358 (see Cal. Rules of Court, rule 28.2 (c)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 29.1, is deferred pending further order of the court.

Votes: George, C.J., Kennard, Baxter, Werdegar, Chin, Brown, and Moreno, JJ.

S120292

A086991 First Appellate District,
Division Three

HENLEY v. PHILIP MORRIS

Petition for review granted; transferred to CA 1/3

with directions to vacate its opinion and to issue a new opinion in conformance with California Rules of Court, rule 24(d).

Votes: George, C.J., Kennard, Baxter, Werdegar, Chin, Brown, and Moreno, JJ.

S110035

A093927 First Appellate District,
Division Three

PEOPLE v. ALLEN

Transferred to CA 1/3 after hold

for reconsideration in light of *People v. Reynoso*
(2003) 31 Cal.4th 903.

Votes: George, C.J., Baxter, Werdegarr, Chin,
Brown, and Moreno, JJ.

S071265

MICHAELS (KURT) ON H.C.

Petition for writ of habeas corpus denied (AA)

The petition for writ of habeas corpus, filed
June 22, 1998, is denied.

Every claim except claim XXIII is denied on
the merits for failure to state a prima facie case
for relief.

To the extent it repeats an issue raised on
appeal, claims XI is barred pursuant to *In re*
Harris (1993) 5 Cal.4th 813, 826 and *In re*
Waltreus (1965) 62 Cal.2d 218, 225. To the
extent that it raises an issue that could have been
raised on appeal, but was not, claim XV is
denied pursuant to *In re Harris, supra*, 5 Cal.4th
813, 826 and *In re Dixon* (1953) 41 Cal.2d 756.

Claim XXIII is denied without prejudice for
failure to comply with Penal Code section
1054.9.

Brown, J., would deny the petition solely on
the merits.

S119394

G030145 Fourth Appellate District,
Division Three

CAPISTRANO UNIFIED SCH DIST v. JAMES R.

Petition for review denied

Kennard, J., and Moreno, J., are of the opinion
the petition should be granted.

S119537

SIERRA CLUB v. P.U.C. (VALENCIA WATER CO.)

Petition for writ of review denied

S119800

H026497 Sixth Appellate District

LOPEZ (TONY J.) ON H.C.

Petition for review denied

S119853
C044878 Third Appellate District

LE (VIET) ON H.C.
Petition for review denied

S119903
F043579 Fifth Appellate District

BEVERLY HEALTHCARE-CALIF. v. S.C. (BURNS)
Petition for review denied

S119934
B169933 Second Appellate District,
Division Three

TARVER (KEVIN) ON H.C.
Petition for review denied

S119989
A099390 First Appellate District,
Division Three

V. (WILLIAM), IN RE
Petition for review & depublication request denied

Kennard, J., is of the opinion the petition should
be granted.

S120029
B161678 Second Appellate District,
Division Four

PEOPLE v. GUILLEN
Petition for review denied

S120035
B170265 Second Appellate District,
Division Eight

GREEN (DUPRIEST J.) ON H.C.
Petition for review denied

S120048
C039577 Third Appellate District

PEOPLE v. WINTER
Petition for review denied

S120059
F039923 Fifth Appellate District

PEOPLE v. TELAMO
Petition for review denied

Werdegarr, J., is of the opinion the petition
should be granted.

S120082
B155679 Second Appellate District,
Division Two

PEOPLE v. ROBLES
Petitions for review denied

S120135

B160207 Second Appellate District,
Division Five

PEOPLE v. GONZALEZ
Petitions for review denied

S120152

A090611 First Appellate District,
Division One

PEOPLE v. REED
Petition for review denied

S120157

B145777 Second Appellate District,
Division Seven

FRANKSTON v. GLENN
Petition for review denied

S120173

B163654 Second Appellate District,
B163654 Division Three

PEOPLE v. JOHNSON
Petition for review denied

S120191

H022635 Sixth Appellate District

PEOPLE v. ELLARD
Petitions for review denied

S120198

C042822 Third Appellate District

ROBERTSON v. WCAB (MOUNTAIN PEOPLE'S
WAREHOUSE)
Petition for review denied

S120216

H021125 Sixth Appellate District

PEOPLE v. LELEI
Petitions for review denied

S120218

H024972 Sixth Appellate District

PEOPLE v. GOMEZ
Petition for review denied

S120219

D043117 Fourth Appellate District,
Division One

BANUELOS v. S.C. (PEOPLE)
Petition for review denied

S120239

H024887 Sixth Appellate District
H023854

MODIRI (SHEA MICHAEL) ON H.C.
Petition for review denied

Werdegarr, J., is of the opinion the petition
should be granted.

S120338 C042014 Third Appellate District	DE ASIS v. DMV Petition for review & depublication request denied
S120380 C041602 Third Appellate District	PEOPLE v. DAVIS Petition for review denied
S120384 C042990 Third Appellate District	M. EMILY, IN RE Petition for review denied
S120385 C042254 Third Appellate District	PEOPLE v. GALINDO Petition for review denied
S120398 G030307 Fourth Appellate District, Division Three	PEOPLE v. ALLAWAY Petition for review denied
S120404 B154240 Second Appellate District, Division Eight	GRITZ, MARRIAGE OF Petition for review denied
S120422 C031821 Third Appellate District	MOORE v. STATE BOARD OF CONTROL Petition for review denied
S120431 G029087 Fourth Appellate District, Division Three	ODDINO, MARRIAGE OF Petition for review denied
S120432 H026075 Sixth Appellate District	BADILLO (STEPHEN PEREZ) ON H.C. Petition for review denied
S120433 H024430 Sixth Appellate District	PEOPLE v. BADILLO Petition for review denied
S120434 A094663 First Appellate District, Division Three	LANE v. NATIONAL AIRMOTIVE CORP. Petition for review denied

S120446

E031966 Fourth Appellate District,
Division Two

GOLDEN EAGLE INS. v. CENTURY SURETY CO.
Petition for review denied

S120455

B158884 Second Appellate District,
Division Five

PEOPLE v. DE LA CRUZ
Petition for review denied

S120466

D039664 Fourth Appellate District,
Division One

PEOPLE v. DENNISON
Petition for review denied

S120490

A102120 First Appellate District,
Division One

PLATT v. BERGER
Petition for review denied

S120491

G031184 Fourth Appellate District,
Division Three

CHELF v. FRYDMAN
Petition for review denied

S120492

B168510 Second Appellate District,
Division Four

RAMOS (LAMBERTO) ON H.C.
Petition for review denied

S120494

B164654 Second Appellate District,
Division Five

PEOPLE v. SHEPHEARD
Petition for review denied

S120495

C043553 Third Appellate District

PEOPLE v. CORDES
Petition for review denied

S120499

D041141 Fourth Appellate District,
Division One

S. (STACY), IN RE
Petition for review denied

S120500

A100345 First Appellate District,
A101238 Division Five
A101546

BLAINE FAMILY TRUST v. SAN FRANCISCO
RESIDENTIAL RENT (PERLSTADT)
Petition for review denied

S120502

H025087 Sixth Appellate District

PEOPLE v. ALCOVER

Petition for review denied

S120506B162216 Second Appellate District,
Division Four

PEOPLE v. PACHECO

Petition for review denied

S120519

F042106 Fifth Appellate District

B. (JAMES), IN RE

Petition for review denied

S120520

F041724 Fifth Appellate District

PEOPLE v. EARP

Petition for review denied

S120524D042041 Fourth Appellate District,
Division One

A. (BRANDI), IN RE

Petition for review denied

S120525

H026544 Sixth Appellate District

MCGRATH v. S.C. (PEOPLE)

Petition for review and application for stay denied

S120526B165274 Second Appellate District,
Division Five

PEOPLE v. GRUESO

Petition for review denied

S120530

C041256 Third Appellate District

PEOPLE v. THOMPSON

Petition for review denied

S120558

H024781 Sixth Appellate District

PEOPLE v. CADLE

Petition for review denied

S120572D043163 Fourth Appellate District,
Division One

PARDEE CONSTRUCTION CO. v. S.C. (ALVAREZ)

Petition for review denied

S120573

H024935 Sixth Appellate District

PEOPLE v. CHRISTOPHER

Petition for review denied

S120574

B162632 Second Appellate District,
Division Four

PEOPLE v. SCOVILL

Petition for review denied

S120590

A100083 First Appellate District,
Division Two

PEOPLE v. HAWKINS

Petition for review denied

S120596

D040175 Fourth Appellate District,
Division One

PEOPLE v. THORNTON

Petition for review denied

S120598

B161894 Second Appellate District,
Division Seven

PEOPLE v. JOHANNESMAN

Petition for review denied

S120601

F041548 Fifth Appellate District

PEOPLE v. GARCIA

Petition for review denied

S120605

A100088 First Appellate District,
Division Two

PEOPLE v. SCOTT

Petition for review denied

S120612

F040668 Fifth Appellate District

PEOPLE v. WOOD

Petition for review denied

S120616

B160122 Second Appellate District,
Division Eight

PEOPLE v. POLANCO

Petition for review denied

S120620

A100353 First Appellate District,
Division Two

PEOPLE v. GASKILL

Petition for review denied

S120622

B164270 Second Appellate District,
Division Seven

PEOPLE v. PASTOR

Petition for review denied

S120627

B158740 Second Appellate District,
B168742 Division Seven

PEOPLE v. GARCIA

Petition for review denied

S120638

E031197 Fourth Appellate District,
Division Two

PEOPLE v. TOLBERT

Petition for review denied

S120639

F041232 Fifth Appellate District

PEOPLE v. HERNANDEZ

Petition for review denied

S120641

C045295 Third Appellate District

AMERICAN ALLIANCE ALWAYS v. S.C. (PEOPLE)

Petition for review denied

S120652

E034668 Fourth Appellate District,
Division Two

NOLLAN (THEODORE G.) ON H.C.

Petition for review denied

S120662

E031229 Fourth Appellate District,
Division Two

DUNN v. SILVER LAKES ASSOC.

Petition for review denied

S120669

F044220 Fifth Appellate District

OLSEN v. S.C. (PEARSON)

Petition for review denied

S120672

B160997 Second Appellate District,
Division Three

PEOPLE v. GUTIERREZ

Petitions for review denied

S120701

B161825 Second Appellate District,
Division Seven

PEOPLE v. CONNORS

Petition for review denied

S120708

E033058 Fourth Appellate District,
Division Two

PEOPLE v. NIA

Petition for review denied

S120709
C040646 Third Appellate District

PEOPLE v. CAGLE
Petition for review denied

S121068

NEWMAN v. CA 2. (PEOPLE)
Petition for writ of mandate/prohibition denied

S121144
A104735 First Appellate District,
Division Two

FILICE v. S.C. (FILICE)
Petition for review and application for stay denied

S121177
E034826 Fourth Appellate District,
Division Two

GOAD v. S.C. (DUNLAP)
Petition for review denied

S113706

DUNHAM (DENNIS A.) ON H.C.
Petition for writ of habeas corpus denied

S114109

BREATLOVE (LLOYD C.) ON H.C.
Petition for writ of habeas corpus denied

S114736

GOMEZ (ALFONSO FRANK) ON H.C.
Petition for writ of habeas corpus denied on the merits.

S114779

ALVAREZ (EFREN) ON H.C.
Petition for writ of habeas corpus denied

S115060

VARGAS (GEORGE) ON H.C.
Petition for writ of habeas corpus denied

S115098

HUNTER (DEMONDZA) ON H.C.
Petition for writ of habeas corpus denied

S115230

GIPSON (MARCUS) ON H.C.
Petition for writ of habeas corpus denied

S115244

WARD (RICHARD E.) ON H.C.
Petition for writ of habeas corpus denied

S115258

BOWMAN (DEAUNDRE L.) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

S115262

RHONE (DARRELL RAY) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

S115269

EVANS (KENNETH) ON H.C.
Petition for writ of habeas corpus denied

S115279

MARTINEZ (THOMAS) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

S115305

SAVAGE (KELLY) ON H.C.
Petition for writ of habeas corpus denied

S115316

SAVAGE (ARTHUR) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

S115368

HIBBERT (BYRON) ON H.C.
Petition for writ of habeas corpus denied

Brown, J., was recused and did not participate.

S115369

CASTRO (JORGE) ON H.C.
Petition for writ of habeas corpus denied

S115402

HILL (CHARLES) ON H.C.
Petition for writ of habeas corpus denied

Brown, J., was recused and did not participate.

S115411

SAVAGE (ARTHUR D.) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

S115474

PONCE (YOLANDA) ON H.C.
Petition for writ of habeas corpus denied

S115529

MILES (ANTHONY T.) ON H.C.
Petition for writ of habeas corpus denied

S115545

MIMS (PATRICK L.) ON H.C.
Petition for writ of habeas corpus denied

Brown, J., was recused and did not participate.

S115546

ALLEN (CEDRIC R.) ON H.C.
Petition for writ of habeas corpus denied

S115549

FORD (ANGELO O.) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

S115551

ROWLAND (JAMES O.) ON H.C.
Petition for writ of habeas corpus denied

S115589

CLARK (LEON TAYLOR) ON H.C.
Petition for writ of habeas corpus denied

S115596

OLMEDO (ELEAZAR V.) ON H.C.
Petition for writ of habeas corpus denied

S115600

COOK (RAANAN) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

S115602

TUCKER (GERALD L.) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

S115603

FERNANDEZ (DANIEL) ON H.C.
Petition for writ of habeas corpus denied with citation(s)

S115604	REYES (RAYMOND) ON H.C. Petition for writ of habeas corpus denied
S115659	TUBACH (ISABEL) ON H.C. Petition for writ of habeas corpus denied
S115669	HOLMES (CHARLES) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S115673	MARTINEZ (GILBERT L.) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S115675	FAJARDO (GUSTAVO A.) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S115676	BOYD (FREDERICK M.) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S115747	CHATMAN (WAYNE L.) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S117369	TUCKER (GERALD L.) ON H.C. Petition for writ of habeas corpus denied
S120564	SHEHEE (GREGORY) ON H.C. Petition for writ of habeas corpus & stay denied
S120763	BENYAMINI (ROBERT) ON H.C. Petition for writ of habeas corpus denied with citation(s)
S120778	GOLIN (NANCY) ON H.C. Petition for writ of habeas corpus denied
S119044 A098995 First Appellate District, Division Three	COOK v. STATE COMPENSATION INS. FUND Publication request denied (case closed)

S120136

B158882 Second Appellate District,
Division Six

SULLIVAN v. CITY OF SAN LUIS OBISPO
Publication requests denied (case closed)

S015008

PEOPLE v. SCHMECK (MARK L.)
Extension of time granted

to February 9, 2004 to file appellant's reply
brief.

S024046

PEOPLE v. O'MALLEY (JAMES F.)
Extension of time granted

to February 20, 2004 to file appellant's opening
brief.

S074624

PEOPLE v. MARTINEZ (TOMMY)
Extension of time granted

to March 2, 2004 to file appellant's opening
brief.

S113321

A092782 First Appellate District,
Division Four

PEOPLE v. WALLACE
Extension of time granted

Respondent's time to serve and file the reply
brief on the merits is extended to and including
January 19, 2004.

S118032

B160484 Second Appellate District,
Division Five

ZAMOS v. STROUD
Extension of time granted

Respondents' time to serve and file the reply
brief on the merits is extended to and including
January 5, 2004. No further extensions of time
will be granted.

S056891

PEOPLE v. THOMPSON (JAMES)

Record augmentation granted in part/denied in part

Appellant's "Motion to Augment the Record on Appeal," filed September 29, 2003, is granted in part and denied in part.

The motion is granted to the following extent:

The Superior Court of Riverside County is directed: (1) to determine (a) whether oral record-correction proceedings were conducted on December 19, 2002, and/or March 13, 2003, and if so (b) whether any such proceedings were reported and transcribed; (2) to receive any transcript of any such proceeding that has been prepared and to cause to be prepared any transcript of any such proceeding that has not been prepared; and (3) to cause any such transcripts to become part of a supplemental reporter's transcript—all with preparation, certification, and transmission as specified in rules 35 and 39.50(a) of the California Rules of Court.

The superior court is further directed: (1) to conduct proceedings to determine whether any of the documents identified below was filed or lodged in the municipal or superior court files in this case; and if so (2) to cause such document or documents to be copied, to cause the document or documents so copied to become part of an augmented clerk's transcript, and to cause such transcript to be prepared, certified, and transmitted as specified in rules 33.5(b), 35 and 39.50(a) of the California Rules of Court for documents filed or lodged under seal, and as specified in rules 35 and 39.50(a) for documents not filed or lodged under seal:

"1. Dalton documents: Documents regarding Danny Ray Dalton submitted under seal to the Riverside County Superior Court in People v. Thompson, Case No. CR-45819 (Appeal No. S056891) by the Riverside County District Attorney in response to a subpoena duces tecum issued by the defense.

"2. Van Pelt documents: Documents regarding James Van Pelt submitted under seal

to the Riverside County Superior Court in People v. Thompson, Case No. CR-45819 (Appeal No. S056891) by the Riverside County District Attorney in response to a subpoena duces tecum issued by the defense.

“3. Juror response: Confidential document or documents indicated at page 1228 of the Clerk’s Transcript in People v. Thompson, Riverside County Case No. CR-45819 (Appeal No. S056891), with the notation, ‘Juror response to ntc of hrng CCP Section 237.’”

“4. 10-21-96 document: Confidential document or documents indicated at page 1229 of the Clerk’s Transcript in People v. Thompson, Riverside County Case No. CR-45819 (Appeal No. S056891), with the handwritten date ‘10-21-96,’ signed by ‘MRico’ and with the notation, ‘ordered sealed do not open without Ct Order.’” (Motion, p. 2.)

“8. Remaining clerk’s transcript: All minute orders, documents, letters, and records of any kind filed or lodged in the Riverside Superior Court pertaining to the instant case and which have not previously been transmitted by the Clerk of the Superior Court for inclusion in the record on appeal, including but not limited to all the documents listed in Appendix A, which comprise Volume IV of the trial court file.” (Motion, p. 3.)

The superior court is further directed to comply, and to cause the superior court clerk to comply, with the foregoing directions by February 23, 2004.

In all other respects, the motion is denied.

S004687

PEOPLE v. COOPER (KEVIN)

Application to file document under seal denied

The motion of condemned inmate Kevin Cooper, to file under seal for in camera review a portion of privately retained associate counsel David T. Alexander’s declaration in support of the “Expedited Motion for Modification of Order to Allow Retained Pro Bono Counsel to Serve as Lead Counsel Replacing Previously

Appointed Counsel,” is denied. The clerk is directed to return such declaration, lodged conditionally under seal but not yet filed, to the moving party. (See Cal. Rules of Court, rule 12.5(e)(7).)

Unless condemned inmate Kevin Cooper notifies this court in writing within 10 days of the date of the filing of this order that he intends to file the lodged but unfiled document or a substitute forthwith, the court will rule on the expedited motion for modification without considering that unfiled document or substitute.

S022998

PEOPLE v. TOWNSEL (ANTHONY L.)
Motion denied

Appellant's letter, filed on December 3, 2003, treated as a motion to relieve appointed counsel and appoint new counsel in her place (see *People v. Marsden* (1970) 2 Cal.3d 118), is denied.

S107355

A096012 First Appellate District,
Division Five

LAMUSGA, MARRIAGE OF
Request for judicial notice granted

Appellant's Second Request for Judicial Notice, filed on January 17, 2003, is granted.

Appellant's Third Request for Judicial Notice, filed on October 17, 2003, is granted in part and denied in part, as follows. Appellant's request that we take judicial notice of the legislative history of Senate Bill 156, attached as exhibit 1, is granted. Appellant's request that we take judicial notice of the order following the hearing of August 8, 2003, attached as exhibit 2, is granted. Appellant's request that we take judicial notice of the preliminary report of minor's counsel, attached as exhibit 5, is granted. In all other respects, Appellant's Third Request for Judicial Notice is denied.

Respondent's Motion Requesting Discretionary Judicial Notice, filed on August 19, 2003, is granted in part and denied in part as follows. Respondent's request that we take

judicial notice of an excerpt of former Civil Code section 213 from 1871, attached as document 2, is granted. Respondent's request that we take judicial notice of an excerpt of former Civil Code section 213 from 1872, attached as document 3, is granted. Respondent's request that we take judicial notice of an excerpt of the New York Civil Code from 1865, attached as document 4, is granted. Respondent's request that we take judicial notice of an excerpt of the New York Civil Code from 1862, attached as document 5, is granted. Respondent's request that we take judicial notice of the opinion in *Wood v. Wood*, attached as document 8, is granted. Respondent's request that we take judicial notice of chapter 162 of the Statutes of 1992, attached as document 9, is granted. Respondent's request that we take judicial notice of chapter 219 of the Statutes of 1993, attached as document 10, is granted. In all other respects, Respondent's Motion Requesting Discretionary Judicial Notice is denied.

S121282

MCNABB v. S.C. (PEOPLE)
Transferred to CA 2

S118399

GERDTS ON DISCIPLINE
Pet/writ of review denied; recommended discipline imposed

Petition for writ of review DENIED.

It is ordered that **Marlene Gerdts, State Bar Number 93815**, be suspended from the practice of law in the State of California for three years, that execution of the three-year suspension be stayed, and that she be placed on probation for four years on the conditions recommended by the Review Department of the State Bar Court in its opinion filed on June 23, 2003, including the conditions that Gerdts be actually suspended from the practice of law in this state for two years and until she (1) makes restitution to Vilma Delgado, or to the Client Security Fund if

it has paid, in the amount of \$210 plus interest thereon at the rate of 10 percent simple interest per annum from March 29, 1997, until paid; (2) makes restitution to Vilma Delgado, or to the Client Security Fund if it has paid, in the amount of \$1,500 plus interest thereon at the rate of 10 percent simple interest per annum from May 22, 1998, until paid; (3) provides satisfactory proof, to the State Bar's Probation Unit in Los Angeles, that she has paid all of the foregoing restitution; and (4) shows proof satisfactory to the State Bar Court of her rehabilitation, present fitness to practice, and present learning and ability in the general law in accordance with standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct. Gerdt is ordered to take and pass the Multistate Professional Responsibility Examination within the period of her actual suspension and to provide satisfactory proof of her passage of that examination to the State Bar's Probation Unit in Los Angeles within that same time period. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Further, Gerdt is ordered to comply with rule 955 of the California Rules of Court and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.* Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and payable in accordance with Business and Professions Code section 6140.7. *(See Bus. & Prof. Code, § 6126, subd. (c).)

B171940 Second Appellate District,
Division Three

METROPOLITAN NEWS CO. v. S.C. (COOLEY)
Order filed

The above entitled matter, now pending in the Court of Appeal, Second Appellate District, Division Three, is transferred to the Court of Appeal, Fourth Appellate District, , Division Three.

It is further ordered that the Fourth Appellate District, Division Three, is hereby designated as the reviewing court for this case.

C042263 Third Appellate District
C042264

PEOPLE v. INGRAM
Order filed

The time for granting review on the court's own motion is hereby extended to and including January 27, 2004. (Cal. Rules of Court, rule 28.2(d).)